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Alan Israel  
Kirschstein, Ottinger, Israel & Schiffmiller, P.C.  
489 Fifth Avenue  
New York, NY 10017

In re Application of

SUGLIANI, et al.

Serial No.: 10/554,193

PCT No.: PCT/EP04/50595

Int. Filing Date: 23 April 2004

Priority Date: 24 April 2003

Atty Docket No.: P/63988

For: COUNTER-PUMPED DISTRIBUTED RAMAN  
AMPLIFICATION IN WAVELENGTH DIVISION:  
MULTIPLEX OPTICAL COMMUNICATION  
SYSTEMS

DECISION ON PETITION

UNDER 37 CFR 1.47(a)

This decision is in response to the "Petition Under Rule 47(a)" filed 12 February 2007 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Simone Sugliani. Applicant has provided a petition fee payment of \$130.00. Applicant is advised that the petition fee for proceeding under 37 CFR 1.47 is \$200.00. As authorized the \$70.00 difference will be charged to deposit account number 11-1145.

### **BACKGROUND**

On 23 April 2004, applicant filed international application PCT/EP04/50595 which claimed priority to a previous application filed 24 April 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States was set to expire at midnight on 24 October 2005.

On 21 October 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment and an English translation of the international application as filed.

On 11 August 2006, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was given two months to respond and advised that this time

period could be extended with a proper petition and payment of fees.

On 12 February 2007, applicant filed the present petition under 37 CFR 1.47(a) accompanied by a petition for a four-month extension of time. With payment of the four-month extension of time applicant's present response is considered timely filed.

### **DISCUSSION**

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied items 1, 2 and 3.

Regarding item (4), the filed declaration does not comply with 37 CFR 1.497 (a)-(b). Specifically, MPEP Section 201.03 states that:

An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

The filed declaration contains two pages "2 of 2." This suggests that either the filed declaration was compiled from numerous declarations or that the inventors only returned their signature pages. Either scenario renders the document non-compliant.

In light of the above, it is not possible to grant applicant's petition at this time.

### **CONCLUSION**

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read 'Derek A. Putonen', written in a cursive style.

Derek A. Putonen  
Attorney Advisor  
Office of PCT Legal Administration  
Tel: 571-272-3294  
Fax: 571-273-0459